



Alan Varela, Director



Mayor Timothy M. Keller

March 14, 2023

TWAS Properties LLC
CO Joshua Skarsguard at josh@retailsouthwest.com 505-262-2323
115 E Main St.
Thomaston GA 30286-3146

Site: Tidal Wave Car Wash – 10601 Unser Blvd. NW (Lot 2)– A11E017C

Re: Drainage Ordinance (§14-5-2-11) Violations for Erosion and Sediment Control

A follow-up inspection was conducted by the City on 3/13/23 and noticed that the Silt Fence along Unser had been repaired, however the new owners failed to provide their NOI, post permit coverage, make the SWPPP available, and complete the silt fence on the northwest side of the site, and they haven't complied with the EPA's CGP part 1.4.3. Table 1 "New Operator of a permitted site" so Lot 2 is not in compliance with the Construction General Permit or the City Ordinance.

This lot is part of a 19 acre "Common Plan of Development or Sale" which is defined in Appendix A of the CGP. Holly Partners, LLC was the original developer that graded the site and subdivided it into 9 lots and then sold lot 2 to TWAS Properties LLC while it was still covered by CGP ID # NMR1004PN. The property owners of all 9 lots must have coverage under the CGP with BMPs until they satisfy the Final Stabilization Criteria in CGP 2.2.14. Lot 2 site is covered by dirt with a few weeds with no significant perennial vegetation so it doesn't satisfy the Final Stabilization Criteria 2.2.14.c.

The following violations were observed on 3/13/23 on lot 2:

1. The property owner hasn't provided their NOI to the City.
2. The permit coverage wasn't posted.
3. Neither the SWPPP nor any reports were available on-site. Nobody was onsite and the location of the SWPPP wasn't indicated on any sign onsite.
4. BMPs - Silt fence was missing on the northwest side. Additional Silt fence is needed to keep sediment out of the streets.

Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 at link https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-19897 requires the property owner to provide an ESC Plan and the EPA's Notice of Intent (NOI) to the city for review and approval prior to issuing construction permits and prior to any land-disturbing activity. It also requires compliance with the Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#).



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Required Mitigation:

1. The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval per the above-referenced ordinance.
2. You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way per CGP 1.5.
3. The SWPPP, including Self Inspection Reports and Corrective Action Reports, must be kept up-to-date per CGP 7.1 and available on-site per CGP 4.7.3, 5.4.3, and 7.3. If an on-site location is unavailable to keep the SWPPP when no personnel are present, a notice of the plan's location must be posted near the main entrance of your construction site CGP 7.3.
4. Ensure that all stormwater controls (BMPs), including the silt fence, are installed and maintained and remain in effective operating condition during permit coverage per CGP 2.1.4. If at any time you find that a stormwater control needs routine Maintenance, you must immediately initiate the needed maintenance work and complete such work by the close of the next business day. When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than seven (7) calendar days from the time of discovery per CGP 5.2.1.

History of Violations and Escalation Process:

Notice of the following types of violations was sent on the dates noted below:

1. NOI – 1/12/23 (Level 2), 2/21/23 (Level 3), 3/14/23 (Level 4)
2. Posting – 1/12/23 (Level 2), 2/21/23 (Level 3), 3/14/23 (Level 4)
3. SWPPP – 1/12/23 (Level 2), 2/21/23 (Level 3), 3/14/23 (Level 4)
4. BMPs – 1/12/23 (Level 2), 2/21/23 (Level 3), 3/14/23 (Level 4)

The City Escalation Process (attached) describes four levels of escalation based on the number of repeats and/or recalcitrant violations of each type.

Per the previous Violation letter dated 2/21/23, the City is assessing a fine of \$3,500, and the non-compliance is being reported to the EPA. This fine is for seven days, 3/8/23 through 3/14/23. Additional days may be added if the violation is not mitigated within seven days. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders.

If you have any questions, you can contact me at 924-3420 or jhughes@cabq.gov.

Sincerely,

James D. Hughes

James D. Hughes, P.E.
Principal Engineer, Planning Dept.
Development and Review Services